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JUL 15 2004

In re Application of:

IWATA *et al.*

Serial No.: 10/081,541

Filed: February 22, 2002

Attorney Docket No.: 5000-4999

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on February 11, 2004. The petition has been treated as a petition filed under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

A requirement for Restriction and/or Election (Requirement for Restriction) was mailed on May 02, 2003. The application was held abandoned for failure to timely file a response to the Requirement for Restriction, and a Notice of Abandonment was mailed on January 27, 2004.

Petitioner asserts that on May 30, 2003, a response to the Requirement for Restriction was filed. To support this assertion, petitioner has submitted a copy of the response, which bears a Certificate of Mailing under 37 CFR § 1.8, of May 30, 2003, and a copy of a return postcard receipt, which acknowledges receipt in the USPTO of a Response to the Requirement for Restriction on June 02, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on June 02, 2003, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the Response to the Requirement for Restriction submitted with the petition on February 11, 2004, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for further examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



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